

2017 -- H 5733 SUBSTITUTE A

LC001966/SUB A

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2017

A N A C T

RELATING TO HUMAN SERVICES - ABUSED AND NEGLECTED CHILDREN

Introduced By: Representatives McEntee, Shekarchi, Knight, McKiernan, and Craven

Date Introduced: March 01, 2017

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 40-11-14 of the General Laws in Chapter 40-11 entitled "Abused
2 and Neglected Children" is hereby amended to read as follows:

3 **40-11-14. Right to representation in court proceedings.**

4 (a) Any child who, is alleged to be abused or neglected as a subject of a petition filed in
5 family court under this chapter, shall have a guardian ad litem ~~and/or a court-appointed special~~
6 ~~advocate~~ appointed by the court to represent this child, ~~all in the discretion of the court.~~

7 (b) A volunteer court-appointed special advocate may be assigned to assist the guardian
8 ad litem, in the court-appointed special advocate's office (CASA):

9 (1) In order to assist the family court with the ability to ensure that these volunteers,
10 whose activity involves routine contact with minors, are of good moral character, all persons
11 seeking to volunteer for CASA shall be required to undergo a national criminal records check for
12 the purpose of determining whether the prospective volunteer has been convicted of any crime.

13 (i) A national criminal records check shall include fingerprints submitted to the Federal
14 Bureau of Investigation (FBI) by the department of children, youth and families for a national
15 criminal records check. The national criminal records check shall be processed prior to the
16 commencement of volunteer activity.

17 (ii) For the purposes of this section, "conviction" means, in addition to judgments of
18 conviction entered by a court subsequent to a finding of guilty or a plea of guilty, those instances
19 where the defendant has entered a plea of nolo contendere and has received a sentence of

1 probation and that sentence has not expired and those instances where a defendant has entered
2 into a deferred sentence agreement with the attorney general.

3 (iii) For the purposes of this section, "disqualifying information" means information
4 produced by a national criminal records checks pertaining to conviction for the offenses
5 designated as "disqualifying information" pursuant to department of children, youth and families
6 policy.

7 (iv) The department of children, youth and families (DCYF) shall inform the applicant, in
8 writing, of the nature of the disqualifying information; and, without disclosing the nature of the
9 disqualifying information, shall notify the family court, in writing, that disqualifying information
10 has been discovered.

11 (v) In those situations in which no disqualifying information has been found, the
12 department of children, youth and families shall inform the applicant and the family court, in
13 writing, of this fact.

14 (vi) The family court shall maintain on file evidence that national criminal records checks
15 have completed on all volunteer court-appointed special advocates.

16 (vii) The criminal record check shall be conducted without charge to the prospective
17 CASA volunteers. At the conclusion of the background check required pursuant to this section,
18 the department of children, youth and families shall promptly destroy the fingerprint record of the
19 applicant obtained pursuant to this chapter.

20 (2) All persons seeking to volunteer for CASA must submit a satisfactory DCYF
21 clearance and participate in a program of training offered by the CASA office.

22 (c) If the parent or other person responsible for the child's care is financially unable to
23 engage counsel as determined by the court, the court may, at the request of that person, and in its
24 discretion, appoint the public defender, or other council, to represent the person. The cost of other
25 counsel in those instances shall be paid by the state. In every court proceeding under this chapter
26 in which it is a party, the department shall be represented by its legal counsel.

27 SECTION 2. Section 42-72-5 of the General Laws in Chapter 42-72 entitled "Department
28 of Children, Youth and Families" is hereby amended to read as follows:

29 **42-72-5. Powers and scope of activities.**

30 (a) The department is the principal agency of the state to mobilize the human, physical,
31 and financial resources available to plan, develop, and evaluate a comprehensive and integrated
32 statewide program of services designed to ensure the opportunity for children to reach their full
33 potential. The services include prevention, early intervention, outreach, placement, care and
34 treatment, and after-care programs; provided, however, that the department notifies the state

1 police and cooperates with local police departments when it receives and/or investigates a
2 complaint of sexual assault on a minor and concludes that probable cause exists to support the
3 allegations(s). The department also serves as an advocate for the needs of children.

4 (b) To accomplish the purposes and duties, as set forth in this chapter, the director is
5 authorized and empowered:

6 (1) To establish those administrative and operational divisions of the department that the
7 director determines is in the best interests of fulfilling the purposes and duties of this chapter;

8 (2) To assign different tasks to staff members that the director determines best suit the
9 purposes of this chapter;

10 (3) To establish plans and facilities for emergency treatment, relocation, and physical
11 custody of abused or neglected children that may include, but are not limited to,
12 homemaker/educator child-case aides, specialized foster-family programs, day-care facilities,
13 crisis teams, emergency parents, group homes for teenage parents, family centers within existing
14 community agencies, and counseling services;

15 (4) To establish, monitor, and evaluate protective services for children including, but not
16 limited to, purchase of services from private agencies and establishment of a policy and
17 procedure manual to standardize protective services;

18 (5) To plan and initiate primary- and secondary-treatment programs for abused and
19 neglected children;

20 (6) To evaluate the services of the department and to conduct periodic, comprehensive-
21 needs assessment;

22 (7) To license, approve, monitor, and evaluate all residential and non-residential child
23 care institutions, group homes, foster homes, and programs;

24 (8) To recruit and coordinate community resources, public and private;

25 (9) To promulgate rules and regulations concerning the confidentiality, disclosure, and
26 expungement of case records pertaining to matters under the jurisdiction of the department;

27 (10) To establish a minimum mandatory level of twenty (20) hours of training per year
28 and provide ongoing staff development for all staff; provided, however, all social workers hired
29 after June 15, 1991, within the department shall have a minimum of a bachelor's degree in social
30 work or a closely related field, and must be appointed from a valid, civil-service list;

31 (11) To establish procedures for reporting suspected child abuse and neglect pursuant to
32 chapter 11 of title 40;

33 (12) To promulgate all rules and regulations necessary for the execution of departmental
34 powers pursuant to the Administrative Procedures Act, chapter 35 of title 42;

- 1 (13) To provide and act as a clearinghouse for information, data, and other materials
2 relative to children;
- 3 (14) To initiate and carry out studies and analysis that will aid in solving local, regional,
4 and statewide problems concerning children;
- 5 (15) To represent and act on behalf of the state in connection with federal-grant programs
6 applicable to programs for children in the functional areas described in this chapter;
- 7 (16) To seek, accept, and otherwise take advantage of all federal aid available to the
8 department, and to assist other agencies of the state, local agencies, and community groups in
9 taking advantage of all federal grants and subventions available for children;
- 10 (17) To review and coordinate those activities of agencies of the state, and of any
11 political subdivision of the state, that affect the full and fair utilization of community resources
12 for programs for children, and initiate programs that will help ensure utilization;
- 13 (18) To administer the pilot, juvenile-restitution program, including the overseeing and
14 coordinating of all local, community-based restitution programs, and the establishment of
15 procedures for the processing of payments to children performing community service; and
- 16 (19) To adopt rules and regulations that:
- 17 (i) For the twelve-month (12) period beginning on October 1, 1983, and for each
18 subsequent twelve-month (12) period, establish specific goals as to the maximum number of
19 children who will remain in foster care for a period in excess of two (2) years; and
- 20 (ii) Are reasonably necessary to implement the child-welfare services and foster-care
21 programs;
- 22 (20) May establish and conduct seminars for the purpose of educating children regarding
23 sexual abuse;
- 24 (21) To establish fee schedules by regulations for the processing of requests from
25 adoption placement agencies for adoption studies, adoption study updates, and supervision related
26 to interstate and international adoptions. The fee shall equal the actual cost of the service(s)
27 rendered, but in no event shall the fee exceed two thousand dollars (\$2,000);
- 28 (22) To be responsible for the education of all children who are placed, assigned, or
29 otherwise accommodated for residence by the department in a state-operated or -supported
30 community residence licensed by a Rhode Island state agency. In fulfilling this responsibility, the
31 department is authorized to enroll and pay for the education of students in the public schools or,
32 when necessary and appropriate, to itself provide education in accordance with the regulations of
33 the board of regents for elementary and secondary education either directly or through contract;
- 34 (23) To develop multidisciplinary service plans, in conjunction with the department of

1 health, at hospitals prior to the discharge of any drug-exposed babies. The plan requires the
2 development of a plan using all health-care professionals;

3 (24) To be responsible for the delivery of appropriate mental health services to seriously,
4 emotionally disturbed children and children with functional, developmental disabilities.
5 Appropriate mental health services may include hospitalization, placement in a residential
6 treatment facility, or treatment in a community-based setting. The department is charged with the
7 responsibility for developing the public policy and programs related to the needs of seriously,
8 emotionally disturbed children and children with functional, developmental disabilities;

9 In fulfilling its responsibilities the department shall:

10 (i) Plan a diversified and comprehensive network of programs and services to meet the
11 needs of seriously, emotionally disturbed children and children with functional, developmental
12 disabilities;

13 (ii) Provide the overall management and supervision of the state program for seriously,
14 emotionally disturbed children and children with functional, developmental disabilities;

15 (iii) Promote the development of programs for preventing and controlling emotional or
16 behavioral disorders in children;

17 (iv) Coordinate the efforts of several state departments and agencies to meet the needs of
18 seriously, emotionally disturbed children and children with functional, developmental disabilities
19 and to work with private agencies serving those children;

20 (v) Promote the development of new resources for program implementation in providing
21 services to seriously, emotionally disturbed children and children with functional, developmental
22 disabilities.

23 The department shall adopt rules and regulations that are reasonably necessary to
24 implement a program of mental health services for seriously, emotionally disturbed children.

25 Each community, as defined in chapter 7 of title 16, shall contribute to the department, at
26 least in accordance with rules and regulations to be adopted by the department, at least its average
27 per-pupil cost for special education for the year in which placement commences, as its share of
28 the cost of educational services furnished to a seriously, emotionally disturbed child pursuant to
29 this section in a residential treatment program which includes the delivery of educational services.

30 "Seriously, emotionally disturbed child" means any person under the age of eighteen (18)
31 years, or any person under the age of twenty-one (21) years, who began to receive services from
32 the department prior to attaining eighteen (18) years of age and has continuously received those
33 services thereafter; who has been diagnosed as having an emotional, behavioral, or mental
34 disorder under the current edition of the Diagnostic and Statistical Manual and that disability has

1 been on-going for one year or more or has the potential of being ongoing for one year or more;
2 and the child is in need of multi-agency intervention; and the child is in an out-of-home
3 placement or is at risk of placement because of the disability.

4 A child with a "functional, developmental disability" means any person under the age of
5 eighteen (18) years or any person under the age of twenty-one (21) years who began to receive
6 services from the department prior to attaining eighteen (18) years of age and has continuously
7 received those services thereafter.

8 The term "functional, developmental disability" includes autism spectrum disorders and
9 means a severe, chronic disability of a person that:

10 (A) Is attributable to a mental or physical impairment or combination of mental physical
11 impairments;

12 (B) Is manifested before the person attains age eighteen (18);

13 (C) Is likely to continue indefinitely;

14 (D) Results in age-appropriate, substantial, functional limitations in three (3) or more of
15 the following areas of major life activity.

16 (I) Self-care;

17 (II) Receptive and expressive language;

18 (III) Learning;

19 (IV) Mobility;

20 (V) Self direction;

21 (VI) Capacity for independent living; and

22 (VII) Economic self-sufficiency; and

23 (E) Reflects the person's need for a combination and sequence of special,
24 interdisciplinary, or generic care, treatment, or other services that are of life-long or extended
25 duration and are individually planned and coordinated.

26 Funding for these clients shall include funds that are transferred to the department of
27 human services as part of the managed health-care-program transfer. However, the expenditures
28 relating to these clients shall not be part of the department of human services' caseload estimated
29 for the semi-annual, caseload-estimating conference. The expenditures shall be accounted for
30 separately;

31 (25) To provide access to services to any person under the age of eighteen (18) years, or
32 any person under the age of twenty-one (21) years who began to receive child-welfare services
33 from the department prior to attaining eighteen (18) years of age, has continuously received those
34 services thereafter, and elects to continue to receive such services after attaining the age of

1 eighteen (18) years. The general assembly has included funding in the FY 2008 department of
2 children, youth and families budget in the amount of \$10.5 million from all sources of funds and
3 \$6.0 million from general revenues to provide a managed system to care for children serviced
4 between 18 to 21 years of age. The department shall manage this caseload to this level of funding;

5 (26) To initiate transition planning in cooperation with the department of behavioral
6 healthcare, developmental disabilities and hospitals and local school departments for any child
7 who receives services through the department of children, youth and families; is seriously,
8 emotionally disturbed or developmentally delayed pursuant to paragraph (b)(24)(v); and whose
9 care may or shall be administered by the department of behavioral healthcare, developmental
10 disabilities and hospitals after the age of twenty-one (21) years; the transition planning shall
11 commence at least twelve (12) months prior to the person's twenty-first birthday and shall result
12 in a collaborative plan submitted to the family court by both the department of behavioral
13 healthcare, developmental disabilities and hospitals and the department of children, youth and
14 families and shall require the approval of the court prior to the dismissal of the abuse, neglect,
15 dependency, or miscellaneous petition before the child's twenty-first birthday;

16 (27) To develop and maintain, in collaboration with other state and private agencies, a
17 comprehensive continuum of care in this state for children in the care and custody of the
18 department or at risk of being in state care. This continuum of care should be family centered and
19 community based with the focus of maintaining children safely within their families or, when a
20 child cannot live at home, within as close proximity to home as possible based on the needs of the
21 child and resource availability. The continuum should include community-based prevention,
22 family support, and crisis-intervention services, as well as a full array of foster care and
23 residential services, including residential services designed to meet the needs of children who are
24 seriously, emotionally disturbed, children who have a functional, developmental disability, and
25 youth who have juvenile justice issues. The director shall make reasonable efforts to provide a
26 comprehensive continuum of care for children in the care and custody of the department of
27 children, youth and families, taking into account the availability of public and private resources
28 and financial appropriations and the director shall submit an annual report to the general assembly
29 as to the status of his or her efforts in accordance with the provisions of § 42-72-4(b)(13);

30 (28) To administer funds under the John H. Chafee Foster Care Independence and
31 Educational and Training Voucher (ETV) Programs of Title IV-E of the Social Security Act [42
32 U.S.C. § 677] and the department of children, youth and families higher education opportunity
33 grant program as outlined in chapter 72.8 of title 42, in accordance with rules and regulations as
34 promulgated by the director of the department; and

1 (29) To process nationwide, criminal-record checks on prospective foster parents and any
2 household member age 18 or older, prospective adoptive parents and any household member age
3 18 and older, operators of child-care facilities, [persons seeking to act as volunteer court-appointed](#)
4 [special advocates](#), persons seeking employment in a child-care facility or at the training school
5 for youth or on behalf of any person seeking employment at the department of children, youth
6 and families, who are required to submit to nationwide, criminal-background checks as a matter
7 of law.

8 (c) In order to assist in the discharge of his or her duties, the director may request from
9 any agency of the state information pertinent to the affairs and problems of children.

10 (d) [Deleted by P.L. 2008, ch. 9, art. 16, § 2.]

11 (e) [Deleted by P.L. 2008, ch. 9, art. 16, § 2.]

12 SECTION 3. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO HUMAN SERVICES - ABUSED AND NEGLECTED CHILDREN

1 This act would require all CASA (court-appointed special advocate) volunteers to first
2 pass department of children, youth and families (DCYF) clearance as well as a national criminal
3 background check before qualifying for appointment by the court.

4 This act would take effect upon passage.

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